

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CHRISTINA WILLIAMS and MICHAEL  
STERMEL, on behalf of themselves and all  
others similarly situated,**

**Plaintiffs,**

**v.**

**No. 2:18-cv-02747-MSG**

**RED STONE, INC., as successor in interest  
to MACFARLANE GROUP, INC.,  
MEDLEY OPPORTUNITY FUND II, LP,  
MARK CURRY, BRIAN MCGOWAN,  
VINCENT NEY, and other JOHN DOE  
persons or entities,**

**Defendants.**

**DEFENDANT MARK CURRY'S MEMORANDUM IN SUPPORT OF MOTION TO  
DISMISS PLAINTIFFS' COMPLAINT FOR LACK OF SUBJECT MATTER  
JURISDICTION OR, ALTERNATIVELY, FAILURE TO STATE A CLAIM**

Specially-Appearing Defendant Mark Curry, by counsel, respectfully moves this Court to dismiss this action for lack of subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1). In the alternative, Curry respectfully requests that the Court dismiss this action for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). Curry relies upon and incorporates by reference the arguments and legal authorities contained in the memorandum of law in support of this Motion.

By making this motion, Curry does not waive any arguments in his contemporaneously filed motion, including that this dispute must be arbitrated rather than litigated. This motion is filed in the alternative to Curry's Motion to Compel Arbitration.

DATED: February 11, 2019

Respectfully submitted,

MARK CURRY

By: s/ Rachel Rodman

Rachel Rodman (*pro hac vice*)

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*Attorneys for Specially-Appearing  
Defendant Mark Curry*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 11th day of February, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system. The foregoing is available for viewing and downloading from the CM/ECF system, which will also send e-mail notification of such filing to all attorneys of record in this action.

I further certify that, on the same day, I sent unsealed versions of the documents filed under seal to all counsel of record by electronic mail.

s/ Rachel Rodman  
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